

Realisation of assets in insolvency

Abstract

Even after seven years since the Act no. 182/2006 Coll., On Bankruptcy and Its Resolution (Insolvency Act), which replaced Act no. 328/1991 Coll., on Bankruptcy and Settlement, has come into effect, there are still gradually emerging problems in interpretation and application of this act.

This thesis aims to provide a detailed analysis of the process of realisation of assets in insolvency. The structure of this publication follows chronologically the procedure for realization of the assets in insolvency.

Firstly, the author examined various entities of the insolvency proceedings, incl. insolvency court, insolvency trustee and different groups of creditors. In following parts the author defines a concept of insolvency assets and analyses a process of searching for the assets, their listing and removal from the list of assets as well as the administration of assets before their sale not missing out the issue of instructions of secured creditors for the administration of the assets.

Subsequently, the author offers description of the process determining the method for realization of assets in insolvency and then individually analyses various ways in which assets could be sold: sale in auction, judicial sale, sale without auction and sale in auction organised by an executor. The author does not forget to point out specifics in the realization of assets constituting collateral for secured creditors.

Afterwards the author analyses process for disposal of proceeds from the realization of assets in insolvency as well as specific rules for realization of assets in a reorganization and debt relief (“oddlužení”), which represent separate methods of insolvency solutions different from bankruptcy.

The result of author’s work is a detailed overview of realization of assets in insolvency which takes into account not only the current legislation, but also its further development including relevant case law.

In some areas case law is not enough to overcome problems, so the author attempted to provide suggestions *de lege ferenda*, which could improve and accelerate the insolvency proceedings, in particular the process of preparation of the sale and sale of the assets. The most problematic areas could be identified as the procedure for realization of the assets

constituting collateral of multiple creditors and easy obstructions which tend to thwart quick sale of debtor's assets.